

EXHIBIT C

N22sHER1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 HERMÈS INTERNATIONAL, et al.,

4 Plaintiffs,

5 v.

22 Civ. 384 (JSR)

6 MARTIN ROTHSCHILD,

7 Defendant.

8 -----x
9 New York, N.Y.
February 2, 2023
10 9:30 a.m.

11 Before:

12 HON. JED S. RAKOFF,

13 District Judge
-and a Jury-

14
15 APPEARANCES

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24
25

N22VHER2

Estival - Redirect

1 Q. And is this a post that you put out publicly?

2 A. Yes, this went out on Twitter.

3 Q. And this 24,000 number, that's right at the top of the
4 Discord?

5 A. Yes, this is on December 15th. And this would have been
6 the number that I saw at the top. And everybody could see
7 publicly, so I couldn't, like, lie about it.

8 MR. HARRIS: Your Honor, I offer Defendant's Exhibit
9 619.

10 MR. WARSHAVSKY: Your Honor, I think this is -- I
11 think this is hearsay within hearsay, given the testimony.

12 THE COURT: Let me ask the witness, this is something
13 you put together?

14 THE WITNESS: This is my -- my tweet.

15 THE COURT: Overruled.

16 MR. HARRIS: Thank you. Please publish that.

17 THE COURT: This is, I think, fair rebuttal, and the
18 door was opened to this. Received.

19 MR. HARRIS: Thank you, your Honor.

20 (Defendant's Exhibit 619 received in evidence)

21 THE COURT: So maybe this has been answered, but at
22 least to me it's unclear. The decision to use the term
23 "MetaBirkins" was yours, yes?

24 THE WITNESS: The final decision to actually use the
25 term, yes.

N22VHER2

Estival - Redirect

1 THE COURT: Okay. And you intended to associate -- to
2 indicate to the people who were accessing this that this was in
3 some sense a reference to Birkin bags, yes?

4 THE WITNESS: In some ways, yes, a reference.

5 THE COURT: Okay. And just so I understand how the
6 purchasing went, they knew that when they purchase an NFT, even
7 though for 24 hours they would only see a shrouded image, that
8 what they were ultimately going to get was one of these --

9 THE WITNESS: Yeah, one --

10 THE COURT: -- MetaBirkin fur-covered MetaBirkin
11 images; correct?

12 THE WITNESS: Yes.

13 THE COURT: Go ahead.

14 BY MR. HARRIS:

15 Q. In fact, Mr. Rothschild, did there come a point in time
16 where the Discord had more than 24,000 members?

17 A. Yes, this was just on December 15th.

18 MR. HARRIS: You can take that down, please, Ashley.

19 Q. Mr. Warshavsky asked you some questions yesterday about a
20 community poll, do you recall that?

21 A. Right.

22 MR. HARRIS: If you could please put up in evidence,
23 Ashley, Exhibit 306, page 31.

24 Q. And you were shown this yesterday, right?

25 A. Yes.

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Estival - Redirect

1 (In open court)

2 MR. HARRIS: Your Honor, may I ask the reporter to
3 read back the question so I get it exactly right?

4 THE COURT: Let me, just to move it along.

5 So you created this image, yes?

6 THE WITNESS: Um, me and Mark.

7 THE COURT: OK. But it was at your direction?

8 THE WITNESS: Um, I believe so. We had just responded
9 to --

10 THE COURT: Well, you're not disclaiming
11 responsibility; you take responsibility?

12 THE WITNESS: Oh, yeah, yeah.

13 THE COURT: All right. And this was after the
14 complaint in this case was filed?

15 THE WITNESS: After the cease and desist.

16 THE COURT: After the cease and desist.

17 Before the complaint?

18 THE WITNESS: Before the official complaint, yes.

19 THE COURT: OK. And you were trying to convey a
20 message?

21 THE WITNESS: Um, yes.

22 THE COURT: OK. And what was the message you were
23 trying to convey?

24 THE WITNESS: Um, we made a statement, um, comparing,
25 um, MetaBirkins to, um, Andy Warhol's Campbell soup cans.

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Estival - Recross

1 THE COURT: And what is Andy Warhol's Campbell's soup
2 can?

3 THE WITNESS: It was an edition of screen prints of
4 Campbell's tomato soup cans that Andy Warhol created.

5 THE COURT: And do I understand what you are saying is
6 that what you had in mind was a form of artistic expression?

7 THE WITNESS: Correct.

8 THE COURT: All right. Go ahead, Counsel.

9 MR. HARRIS: Your Honor, I have no further questions.

10 THE COURT: OK. Any recross?

11 MR. WARSHAVSKY: Yes, your Honor.

12 RECROSS EXAMINATION

13 BY MR. WARSHAVSKY:

14 Q. Mr. Rothschild, in response to your counsel's question
15 about Discord, you said you had public communications with
16 various purchasers of the MetaBirkins, correct?

17 A. Yes.

18 Q. You haven't shown us any of those in this case, have you?

19 A. They are public.

20 Q. But none of them have been shown?

21 A. I produced my Discord -- the whole Discord and public
22 documents. It's thousands and thousands of pages.

23 Q. OK. Have any of them been shown in court?

24 A. Yes.

25 Q. Which communication, which exhibit --